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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,811	10/23/2007	Francis Emmerson	042933/313161	4923
826 7590 06/17/2009 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER GRAY, BRANDON RAMON	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/583,811

**Applicant(s)**

EMMERSON, FRANCIS

**Examiner**

BRANDON GRAY

**Art Unit**

4177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date 06/22/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 12 is rejected under 35 U.S.C 101 because the claimed method fails to (1) tie to a particular machine or apparatus, or (2) transform a particular article to a different state or thing, as required by *In re Bilski*. More specifically, the method claim only mentions "computer game" in the preamble and fails to tie the process to a particular machine. Finally, the method claim does not appear to transform a particular article to a different state or thing.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8-11 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 9-11 recite the limitation of "cameraman". Applicant needs to further clarify the term for use in a virtual environment.

Claims 8 recited the limitation of "user terminals". This feature lacks proper antecedent basis.

Claim 13 includes two occurrences of the term "a user". Does applicant intend to claim two separate users? Clarification is required.

### ***Claim Objections***

Claims 13 is objected to because of the following informalities: Claim 13 recites "a network interface for transferring information to and from network". Applicant is advised to amend the claim to recite "a network interface for transferring information to and from the network". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 5-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Wong US Pub Number (2003/0038805).

Regarding claim 1, 12 and 13, Wong discloses an online gaming system enabling users connected to a communications network to interact with a computer game being played across the network, the system comprising at least one state engine (fig 12, 314 game server is equivalent) for controlling the state of the game and at least one presentation engine (fig 12 , 318 the game clients PC is equivalent) for controlling the presentation to users of an output representing the state of the game (par 0083,

0085, Wong discloses a game server with one or more game clients and the game clients including PC's which provides presentation of the game);

the state engine being arranged to enable one or more users to affect the state of the game by communicating with the state engine and thereby act as participant(s) in the game (fig 12, par 0083; Wong discloses the game engine including game clients who affect the game by providing movement information to the game server); and

the presentation engine being arranged to enable at least one other user to affect the presentation of the output to one or more users acting as spectator(s) of the game by communicating with the presentation engine. (fig 12, par 0081, Wong discloses the game server including users 310 who can utilize the website where communication is done and connects to a game which gives this user the ability to affect the presentation to spectators).

Regarding claim 2, Wong discloses that the state engine (game server 314) which is shared by the users (game clients 318), but each user has its own presentation engine (fig 12 par 0083; Wong discloses the game server that is equivalent of the state engine shared by game clients which are connected through servers by way of PC's that gives each participate their own presentation engine).

Regarding claim 5 and 14, Wong discloses wherein the system further comprises a side channel for communicating at least one of voice and data to other users while the game is being played (par 0084, 0085; Wong discloses the representation of audio and graphical features implemented in the game).

Regarding claim 6, Wong discloses wherein the online game is played in a substantially real time manner across the network (par 0005, 0006, 0009, 0027, 0038 and 0045; Wong discloses a relative game time included in the system which conveys a real time manner with the game engine connected to participants through a server). Regarding claim 7, Wong discloses wherein the network is a wireless communications network (par 0083; Wong discloses the system having wireless connections).

Regarding claim 8, Wong discloses wherein the user terminals are wireless terminals (par 0083; Wong discloses the user terminals can be a handheld device with wireless communication).

Regarding claim 9, Wong discloses wherein at least one of the spectators acts as a cameraman for affecting the virtual viewing position and angle of the game (par 0085, 0086 ; Wong discloses the viewing control being controlled by the spectator to control what aspects of the game and level of zoom are used which is part of the spectator experience. Wong discloses the spectator being the cameraman for affecting the virtual viewing position and angle of the game as seen by the other spectators (par 0034, 0036; Wong discloses the spectator experience can include audio and visual indication and the ability to control the camera).

Regarding claim 10, Wong discloses wherein said cameraman is also arranged to affect the view of the game as seen by the participants (par 0085, 0086 Wong discloses the spectator experience which encompasses being able to change viewing controls and the game sever can employ that information for the game clients to perceive during a game).

Regarding claim 11, Wong discloses wherein said spectator acts as a cameraman using camera circuitry stored in a presentation engine (fig 12, par 085; Wong discloses the viewing controls which can be implemented locally by each spectator 320).

Regarding claim 15, Wong discloses wherein the further information transferred from the side channel is at least one of voice, SMS and email data (par 0036, 0037, 0057; Wong discloses audio being communicated equivalent to voice, a messaging service which is equivalent to email since to receive the message you must be connected electronically to the network, and receiving messages textual which is equivalent to SMS).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong US Pub Number (2003/0038805) in view of Shteyn US Pub Number (2003/0220143).

Regarding claim 16, Wong discloses an online gaming system enabling users connected to a communications network to interact with a computer game being played across the network, the system comprising at least one state engine (fig 12, 314 game server is equivalent) for controlling the state of the game in accordance with state rules and at least one presentation engine (fig 12 , 318 game client PC) for controlling the

presentation to the users of an output representing the state of the game (par 0083, 0084, 0085; Wong discloses a game server with one or more game clients providing game and movement information, and the game clients including PC's which provides presentation of the game to the spectators); wherein:

the state engine is arranged to enable one or more users to affect the state of the game by communicating with the state engine and thereby act as participant(s) in the game (fig 12, par 0083; Wong discloses the game engine including game clients and them providing movement information to the game server); and

Wong is silent on the state engine is arranged to vary the state rules in response to inputs received from the spectators indicating a support for a participant so as to vary the rules to favor the participant having the most support.

However, Shteyn teaches the state engine (par 0017; PC) is arranged to vary the state rules in response to inputs received from the spectators indicating a support for a participant so as to vary the rules to favor the participant having the most support (par 0023, 0024; Shteyn teaches a plurality of spectators having the ability to effect the rules for the active player which can attribute to the player performance to favor the player with the most support). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine Wong's invention with Shteyn's invention to further enhance the game play for the benefit of the spectator (par 0009).

Claims 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong US Pub Number (2003/0038805) in view of Sobue US Pub Number (2002/0142834).



Regarding claim 3, Wong discloses that each user has its own presentation engine (fig 12, par 0083; Wong discloses game clients which are connected through servers by way of PC's that gives each participate the ability to have their own presentation engine). Wong is silent on each user has its own state engine. However Sobue teaches an active player using their own pc with their own server which is equivalent to a state engine (par 0114, 0115). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention give a user his own state engine for instances of single player play at a single location instead of multi player gaming at a single location in order to let each user customize his/her own game play.

Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong US Pub Number (2003/0038805) in view of Hsiao US Pub Number (2003/0078100).

Regarding claim 4, Wong discloses that the system has a state engine that is shared by the users (par 0083; Wong discloses the game server connecting the game clients to the game Wong is silent on the presentation engine being shared by users). However Hsiao teaches the presentation engine of D being shared by more then one user A1 (fig 5, par 0015). Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to share presentations engines with users because having two user share a presentation engine known as multi-player gaming at a single location to improve the excitement of group game play.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON GRAY whose telephone number is (571)270-7465. The examiner can normally be reached on Mon- Fri 7am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. G./  
June 11, 2009, 2009  
Examiner, Art Unit 3714

/JAMES S. MCCLELLAN/

Primary Examiner, Art Unit 3714